IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1168 of 1987

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJ STATE ROAD TRANSPORT CORPN - Appellant(s)
Versus
NATVERBHAI JIVANBHAI PATEL & 2 - Defendant(s)

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Appearance :
MS.MAYA DESAI for Appellant
NOTICE SERVED for Respondents

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 02/07/2007

ORAL JUDGMENT

The appellant-GSRTC, being aggrieved by the award dated 10th September,1986 passed by the

M.A.C.Tribunal [Main], Surat, in M.A.C. Petition No. 129/85 is before this Court with a submission that the Tribunal was unjustified in making award in favour of the parents of the deceased.

2. The submission of the claimants before the Tribunal was that as a result of the rash and negligent driving of the bus driver, the boy had suffered grievous injuries and thereafter died. While the defence of the appellant before the Tribunal was that the bus which was not in fit condition was stopped by some boys, they forcibly entered in the bus and thereafter one of the boys leaned out of the bus and his head struck against the iron bar of the window, as a result of the injury the boy died. They submitted that they were not responsible for any claim. The Tribunal, however, held the driver of the bus and the GSRTC answerable to the claim made by the parents of the deceased to the tune of Rs. 50,500/- with interest at the rate of 12% per annum.

3. Ms. Maya Desai, learned counsel for the

appellant, after taking me through the evidence and the findings recorded by the Tribunal, submitted that the Tribunal was unjustified in holding that the bus dashed against the electricity pole. According to her, the evidence available on the records would show that the bus was not in fit condition and the boys unnecessarily entered in the bus.

4. The evidence available on the records shows that after making entry in the bus, all the four boys had paid a sum of 0.50 ps. to the conductor towards the fare. If this is undisputed fact, then, the GSRTC would not be allowed to say that the bus was not in fit condition or could not carry passengers.

5. So far as the accident with electrical pole is concerned, it will have to be seen from the evidence. From the panchnama, it was found that the bus had marks of fresh accident. The recitals made in th panchnama exh. 15 clearly go to show that the bus dashed against the electricity pole; that portion of the bus was damaged on account of dashing against the

electricity pole; that handle of the entrance of the bus was broken and the glass panel of the windows and the door of the bus were also damaged; there were fresh marks of dashing. If these facts are available on the records, then, it would not be possible for this Court to hold that the inmate of the bus was leaning out and he had suffered injury by the pole. The facts clearly show that the bus driver was negligent and he had caused the accident.

6. As question of compensation has not been challenged before this Court, I must hold that the Tribunal was absolutely justified in holding the driver and the owner of the bus answerable to the claim. The appeal is dismissed. No costs. Interim relief, if any, is vacated.

[R.S. GARG, J.]

pirzada/-